

# SENATE BILL No. 383

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 6-3.1-20.

**Synopsis:** High technology investment credit. Allows a credit against state tax liability for qualified investments in small Indiana high technology businesses. Provides that the credit equals 10% of the amount of qualified investment made in the taxpayer's taxable year. Provides that the credit applies only to qualified investments made in 2000, 2001, and 2002.

**Effective:** January 1, 2000.

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**Simpson**

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January 11, 1999, read first time and referred to Committee on Finance.

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First Regular Session 111th General Assembly (1999)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 1998 General Assembly.

## SENATE BILL No. 383

A BILL FOR AN ACT to amend the Indiana Code concerning taxation.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 6-3.1-20 IS ADDED TO THE INDIANA CODE  
2 AS A **NEW** CHAPTER TO READ AS FOLLOWS [EFFECTIVE  
3 JANUARY 1, 2000]:

4 **Chapter. 20. High Technology Investment Tax Credit**

5 **Sec. 1. As used in this chapter, "advanced computing" means a**  
6 **technology used in the designing and developing of computing**  
7 **hardware and software, including innovations in designing the full**  
8 **spectrum of hardware from hand held calculators to super**  
9 **computers and peripheral equipment.**

10 **Sec. 2. As used in this chapter, "advanced materials" means**  
11 **materials with engineered properties created through the**  
12 **development of specialized processing and synthesis technology,**  
13 **including ceramics, high value added metals, electronic materials,**  
14 **composites, polymers, and biomaterials.**

15 **Sec. 3. As used in this chapter, "biotechnology" means the**  
16 **continually expanding body of fundamental knowledge about the**  
17 **functioning of biological systems from the macro level to the**



1 molecular and subatomic levels, as well as novel products, services,  
2 technologies, and subtechnologies developed as a result of insights  
3 gained from research advances that add to that body of  
4 fundamental knowledge.

5 Sec. 4. As used in this chapter, "control" means one (1) of the  
6 following:

7 (1) Ownership, directly or indirectly, of stock possessing more  
8 than eighty percent (80%) of the total combined voting power  
9 of all classes of the stock of a corporation entitled to vote.

10 (2) Ownership, direct or indirect, of more than eighty percent  
11 (80%) of the beneficial interest in the principal or income of  
12 a trust.

13 Sec. 5. As used in this chapter, "controlled group" means one (1)  
14 or more chains of corporations connected through stock ownership  
15 with a common parent corporation if stock possessing at least  
16 eighty percent (80%) of the voting power of all classes of stock of  
17 each of the corporations is owned directly or indirectly by one (1)  
18 or more of the corporations, and the common parent owns directly  
19 stock possessing at least eighty percent (80%) of the voting power  
20 of all classes of stock of at least one (1) of the other corporations.

21 Sec. 6. As used in this chapter, "department" refers to the  
22 department of state revenue.

23 Sec. 7. As used in this chapter, "electronic device technology"  
24 means a technology involving any of the following:

- 25 (1) Microelectronics.
- 26 (2) Semiconductors.
- 27 (3) Electronic equipment.
- 28 (4) Instrumentation.
- 29 (5) Radio frequency.
- 30 (6) Microwave.
- 31 (7) Millimeter electronics.
- 32 (8) Optical and optic electrical devices.
- 33 (9) Data and digital communications.
- 34 (10) Imaging devices.

35 Sec. 8. As used in this chapter, "environmental technology"  
36 means any of the following:

- 37 (1) The assessment and prevention of threats or damage to  
38 human health or the environment.
- 39 (2) Environmental cleanup.
- 40 (3) The development of alternative energy sources.

41 Sec. 9. As used in this chapter, "medical device technology"  
42 means a technology involving any medical equipment or product



(other than a pharmaceutical product) that has therapeutic value or diagnostic value and is regulated by the federal Food and Drug Administration.

**Sec. 10.** As used in this chapter, "partnership" means an association of two (2) or more entities formed to conduct a business, including:

- (1) a limited partnership, a syndicate, a group, a pool, a joint venture, or an incorporated association; or
- (2) a similar entity if the income for federal income tax purposes is taxed to the equity participants in that business, however characterized.

**Sec. 11.** As used in this chapter, "pass through entity" means:

- (1) a corporation that is exempt from the adjusted gross income tax under IC 6-3-2-2.8(2); or
- (2) a partnership.

**Sec. 12. (a)** As used in this chapter, "pilot scale manufacturing" means the design, construction, and testing of preproduction prototypes and models in the following:

- (1) Advanced computing.
- (2) Advanced materials.
- (3) Biotechnology.
- (4) Electronic device technology.
- (5) Environmental technology.
- (6) Medical device technology.

(b) The term does not include the design, construction, and testing of preproduction prototypes and models for commercial sale. However, if the gross receipts from the sales of prototypes or sales for market testing are less than one million dollars (\$1,000,000), the prototypes and models are not considered to be for commercial sale.

**Sec. 13.** As used in this chapter, "qualified investment" means the nonrefundable, at-risk investment of cash in a small Indiana based high technology business by a taxpayer that is not a related person of the small Indiana based high technology business. In exchange for the taxpayer's investment of cash, the taxpayer must receive one (1) of the following:

- (1) Stock.
- (2) Interest in a partnership or joint venture.
- (3) A license.
- (4) The right to use a particular technology.
- (5) Marketing rights.
- (6) Warrants.



(7) Options.

Sec. 14. As used in this chapter, "qualified research expenses" means qualified research expenses as defined in Section 41 of the Internal Revenue Code in the following:

- (1) Advanced computing.
- (2) Advanced materials.
- (3) Biotechnology.
- (4) Electronic device technology.
- (5) Environmental technology.
- (6) Medical device technology.

Sec. 15. As used in this chapter, "related person" means one (1) of the following:

- (1) A corporation, partnership, association, or trust controlled by the taxpayer.
- (2) A corporation, partnership, association, or trust that is in the control of the taxpayer.
- (3) A corporation, partnership, association, or trust controlled by a corporation, partnership, association, or trust that is in the control of the taxpayer.
- (4) A member of the same controlled group as the taxpayer.

Sec. 16. As used in this chapter, "small Indiana based high technology business" means an individual or entity that:

- (1) is doing business in Indiana;
- (2) has qualified research expenses paid or incurred for research conducted in Indiana; and
- (3) has not more than two hundred twenty-five (225) employees, of whom at least seventy-five percent (75%) are employed in Indiana.

Sec. 17. As used in this chapter, "state tax liability" means a taxpayer's total tax liability that is incurred under:

- (1) IC 6-2.1 (the gross income tax);
- (2) IC 6-3-1 through IC 6-3-7 (the adjusted gross income tax);
- (3) IC 6-3-8 (the supplemental net income tax);
- (4) IC 6-5.5 (the financial institutions tax); and
- (5) IC 27-1-18-2 (the insurance premiums tax);

as computed after the application of the credits that, under IC 6-3.1-1-2, are to be applied before the credit provided by this chapter.

Sec. 18. (a) Subject to the limitation provided in subsection (c), a taxpayer is entitled to a credit against the taxpayer's state tax liability for a taxable year for a qualified investment in a small Indiana based high technology business in the taxpayer's taxable



1 year.

2 (b) The amount of the credit is equal to the amount of the  
3 taxpayer's qualified investment made in the taxable year multiplied  
4 by ten percent (10%).

5 (c) A taxpayer may only receive a credit for qualified  
6 investments made in taxable years beginning after December 31,  
7 1999, and ending before January 1, 2003.

8 Sec. 19. (a) If the amount determined under section 18(b) of this  
9 chapter for a taxpayer in a taxable year exceeds the taxpayer's  
10 state tax liability for that taxable year, the taxpayer may carry the  
11 excess over to the following taxable years. The amount of the credit  
12 carryover from a taxable year shall be reduced to the extent that  
13 the carryover is used by the taxpayer to obtain a credit under this  
14 chapter for any subsequent taxable year. A taxpayer is not entitled  
15 to a carryback.

16 (b) A taxpayer is not entitled to a refund of unused credit.

17 Sec. 20. If a pass through entity does not have state income tax  
18 liability against which the tax credit may be applied, a shareholder  
19 or partner of the pass through entity is entitled to a tax credit equal  
20 to:

- 21 (1) the tax credit determined for the pass through entity for
- 22 the taxable year; multiplied by
- 23 (2) the percentage of the pass through entity's distributive
- 24 income to which the shareholder or partner is entitled.

25 Sec. 21. To receive the credit provided by this chapter, a  
26 taxpayer must claim the credit on the taxpayer's state tax return  
27 or returns in the manner prescribed by the department. The  
28 taxpayer shall submit to the department proof of payment of an ad  
29 valorem property tax and all information that the department  
30 determines is necessary for the calculation of the credit provided  
31 by this chapter.

32 SECTION 2. [EFFECTIVE JANUARY 1, 2000] IC 6-3.1-20, as  
33 added by this act, applies only to taxable years that begin after  
34 December 31, 1999, and end before January 1, 2003.

